

# 2011 -- H 5446 SUBSTITUTE A

LC01343/SUB A/2

## STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - AGENCY RELATIONSHIPS IN  
RESIDENTIAL REAL ESTATE TRANSACTIONS

Introduced By: Representatives Petrarca, Ucci, Morrison, JP O'Neill, and Silva

Date Introduced: February 16, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-20.6-2 of the General Laws in Chapter 5-20.6 entitled "Agency  
2 Relationships in Residential Real Estate Transactions" is hereby amended to read as follows:

3 **5-20.6-2. Definitions.** – As used in this chapter, the following terms shall have the  
4 following meanings:

5 (1) "Affiliated licensee" means a licensed real estate salesperson or real estate broker as  
6 defined in section 5-20.5-1 associated with a particular principal broker.

7 (2) "Brokerage" means a principal broker as defined in section 5-20.5-8 and his or her  
8 affiliated licensees.

9 (3) "Buyer" means a person who acquires or seeks to acquire an ownership interest in  
10 real estate.

11 (4) "Client" means a buyer, seller, tenant or landlord who has agreed to representation by  
12 a licensee in a real estate transaction, evidenced by an executed mandatory relationship  
13 disclosure, to whom a licensee owes the duties set forth in section 5-20.6-5.

14 (5) "Client representation contract" means an express, written contract between a  
15 principal broker or his or her affiliated licensees and a client that authorizes the principal broker  
16 or his or her affiliated licensees to act as a client representative for a buyer, seller, landlord, or  
17 tenant and meets the requirements of section 5-20.6-10.

18 (6) "Confidential information" means the following information:

- 1 (i) A buyer or tenant's willingness to pay more than the offered price;
- 2 (ii) A seller or landlord's willingness to accept less than the asking price;
- 3 (iii) A buyer or tenant's previous offers made to purchase or lease real estate;
- 4 (iv) A seller or landlord's previous offers received to purchase or lease real estate;
- 5 (v) Any parties' motivating factors;
- 6 (vi) Any parties' willingness to agree to other financing terms;
- 7 (vii) Any facts or suspicions regarding circumstances, other than known material defects
- 8 of a property that a licensee must in all cases disclose, that may psychologically impact or
- 9 stigmatize any real estate; or
- 10 (viii) Any information about a party's assets, liabilities, income, or expenses.

11 (7) "Customer" means a buyer, seller, tenant, or landlord who has agreed to certain

12 assistance by a licensee in a real estate transaction, evidenced by an executed mandatory

13 relationship disclosure, to whom a licensee owes the duties set forth in section 5-20.6-4.

14 (8) "Designated client representative" means an affiliated licensee appointed by the

15 principal broker or his or her designee to represent a buyer, seller, tenant, or landlord in a real

16 estate transaction.

17 The affiliated licensee so designated shall obtain the informed, written consent of the

18 buyer, seller, tenant, or landlord with a signed mandatory relationship disclosure pursuant to

19 section 5-20.6-8.

20 (9) "Director" means the director of business regulation for the state.

21 (10) "Dual facilitator" means a single licensee who, with the prior written consent of

22 both parties assists a seller client and a buyer client in the same transaction subject to the

23 limitations set forth in section 5-20.6-6.

24 (11) "Landlord" means a person who leases or attempts to lease his ownership interest in

25 real estate to another person.

26 (12) "Lease" means an express written or oral contract between a landlord and tenant for

27 the use or occupancy by the tenant of real estate that is owned by another person.

28 (13) "Licensee" means an individual licensed by the director as a real estate broker or

29 real estate salesperson pursuant to chapter 5-20.5.

30 (14) "Mandatory relationship disclosure" means a form that describes the relationship

31 between a consumer and a principal broker and his or her affiliated licensees that meets the

32 requirements of section 5-20.6-8.

33 (15) "Ministerial acts" means acts of an administrative nature that licensees perform for

34 client or customers, including, but not limited to, showing property; preparing offers or

1 agreements to sell, purchase, exchange, rent, or lease; conveying offers or agreements to the  
2 parties; and providing information and assistance.

3 (16) "Principal broker" means a real estate broker licensed by the director who is  
4 designated by the brokerage to be responsible for the supervision and activities of his or her  
5 affiliated licensees in accordance with this chapter and chapter 5-20.5.

6 (17) "Real estate" refers to vacant land on which a building is intended to be constructed  
7 for use as one or two (2) residential dwellings or land with physical improvements consisting of a  
8 house and/or structure comprised of four (4) or fewer residential units.

9 (18) "Sales agreement" means an express written contract signed by the buyer and seller  
10 for the purchase and sale of the real estate.

11 (19) "Sell," "sale," or "sold" means a transaction for the transfer of real estate from a  
12 seller to a buyer, including, but not limited to, exchanges of real estate between the seller and  
13 buyer and transactions involving the creation of a sales agreement.

14 (20) "Seller" means a person who sells or attempts to sell an ownership interest in real  
15 estate to another person.

16 (21) "Tenant" means a person who acquired or seeks to acquire an interest in real estate  
17 that entitles him or her to occupy or use a property that is owned by another person.

18 (22) "Transaction coordinator" means a principal broker or his or her designee who  
19 supervises a real estate transaction in a neutral capacity in which one affiliated licensee represents  
20 a buyer or tenant as a designated client representative and another affiliated licensee represents a  
21 seller or landlord as a designated client representative in the same transaction. A transaction  
22 coordinator does not own any fiduciary duties to any party in a transaction except the duties to  
23 protect the confidential information of the parties and to properly account for money placed in his  
24 or her care.

25 (23) "Transaction facilitator" means a licensee who provides assistance to a buyer, seller,  
26 tenant, or landlord, or both, in a real estate transaction as a neutral facilitator. A transaction  
27 facilitator does not owe any fiduciary duties to any party in a transaction but does owe the duties  
28 set forth in section 5-20.6-4.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO BUSINESSES AND PROFESSIONS - AGENCY RELATIONSHIPS IN  
RESIDENTIAL REAL ESTATE TRANSACTIONS

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1           This act would redefine the term "real estate," for the purposes of agency relationship in  
2 residential real estate transfers, to include vacant land on which a building is intended to be  
3 constructed for use as one or two residential dwellings and land with a house and/or structure  
4 comprised of four or fewer residential units.

5           This act would take effect upon passage.

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